S.B. Civil Writ Petition No.6978/04
Devi Singh Panwar Vs. State & Anr.

Date of Order : 16/05/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Sunil Samdaria, for petitioner
Mr. B.K. Sharma, Dy.G.A.

By the instant petition, petitioner has prayed for release of leave encashment in terms of Rule 91-B of Rajasthan Service Rules on account of being compulsorily retired under Rule 53(1) of Rajsthan Civil Services (Pension) Rules, 1996.

The petitioner was compulsorily retired under Rule 53(1) of Rules, 1996 vide order dt.11th May, 2000 [Ex.1] which has been challenged by the petitioner before the Tribunal in Appeal No.1646/2001, which is still sub judice and pending consideration. The petitioner received all retiral dues other than payment towards leave encashment and amendment has also been made under rules whereby Rule 91-B has been inserted in the Rules, 1951. The extract of the same is reproduced as under:

> "(1) A Government servant on retirement from service on superannuation, invalid compensation pensoin or retirement pension under Rule 50 and 53 of Rajasthan Civil Services (Pension) Rules, 1996 shall be paid cash equivalent to leave salary in respect of the period of unutilized privileged leave not exceeding 300 days at his/her credit at the time of retirement.
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> Note: The benefit under this sub rule shall not be admissible to the Government servants retired compulsory as a measure of penalty under the Rajasthan Civil Services [CC &A] Rules, 1958."

Since payment towards leave encashment was not made to the petitioner, he made representation, but when no reply was received, he filed the instant petition.

Counsel submits that the controversy with respect to release of cash equivalent to leave salary for unutilized privileged leave with regard to such employees who retired compulsorily prior to amendment notification dt.20th August, 2001 has been considered by the Division Bench of this court in **Sukh Ram Jatav Vs. State of Rajasthan [RLR 2004 (2) 43]** and it has been finally held that even those who retired prior to enforcement of amendment notification, they too are entitled for encashment with regard to unutilized leave and even with regard to person compulsorily retired. This is not disputed by the counsel for respondents. The controversy has put to rest by the Division Bench of this court in the judgment [supra].

Accordingly, the writ petition stands allowed and the respondents are directed to pay cash equivalent to unutilized privileged leave in terms of Rule 91-B of Rules, 1951 within a period of two months from today. No costs.

[Ajay Rastogi],J.

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